IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.745 OF 2006

Kailas Narhari Chaure ....Applicant.

V/s

The State of Maharashtra ....Respondent.

Ms. Pranali Kakade for the applicant.
Ms. Rajeshree M. Gadhvi, APP for the State.

CORAM: V.M. KANADE, J.
DATE: 8th March, 2006

P.C.

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicant was arrested in connection with C.R. No. 1 of 2005 registered at Haveli Police Station for the offence punishable under sections 302, 147, 148, 149, 326, 324, 377, 120(B) of the Indian Penal Code.

3. It is alleged that a conspiracy was hatched by the original accused Nos. 7 and 8 who were carrying on prostitution business to eliminate the rival who had a hotel and who was also carrying on the same business. The applicant had accompanied the main assailants in rickshaw alongwith two friends. The assailants went to the hotel and murdered one lady by name Pooja who was a prostitute and, thereafter, they travelled in rickshaw alongwith the present applicant and two

others and the clothes which were worn by the main assailants and the present applicant were kept in the house of the main conspirators i.e. accused Nos. 7 and 8. The Trial Court rejected the application for bail on the ground that there was mobile conversation of the present applicant with the main conspirators.

4. The learned Counsel for the applicant invited my attention to the said report of mobile conversation which indicates that mobile phone was made after a lapse of about six months from the date of the incident. Further, as observed, the clothes of the present applicant were recovered from the house of the main conspirators i.e. accused Nos. 7 and 8. The learned Counsel invited my attention to the recovery panchanama which indicates that the clothes of the present applicant were recovered at the instance of another co-accused Santosh. It is submitted, therefore, that the finding given by the trial court on both these aspects was factually incorrect.

5. The learned APP, on the other hand, submitted that the applicant was a co-conspirator and that his clothes were recovered from the house of the main conspirators. She submitted that another witness had made a statement that the applicant and the main

conspirators used to meet in a hotel.

6. In the present case, the charge-sheet has been filed. The other two accused who were travelling in the rickshaw alongwith the present applicant had been released on bail. The record indicates that the phone was made by the applicant from his mobile to the accused Nos. 7 and 8 after a lapse of six months. Therefore, at this stage, it cannot be said that he had knowledge about the conspiracy. Charge-sheet has been filed. The applicant, therefore, is entitled to bail on the ground of parity.

7. In the result, the applicant be released on bail in the sum of Rs 5000/- with one or two sureties in the like amount. The applicant shall, however, report to Haveli Police Station once in a month.

8. Application is accordingly disposed of.

9. Criminal Application No.9 of 2006 which is tagged with this application is an application of the co-accused Shri Dinesh @ Shiva Hemant Sapre which is already disposed of.

V.M. KANADE, J.